

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DONALD FERGUSON,

Petitioner,

Case No. 2:07-CV-81

v.

HON. GORDON J. QUIST

JERI-ANN SHERRY,

Respondent.

/

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has before it Petitioner's Objections to the Report and Recommendation dated November 2, 2009. In his Report, the Magistrate Judge recommended that Petitioner's habeas petition be denied. Petitioner filed an objection. After conducting a *de novo* review, the Court concludes that the Report and Recommendation should be adopted and the petition dismissed.

A District Court does not need to provide *de novo* review where objections to a Report and Recommendation are frivolous, conclusive, or general. *See Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). Here, Petitioner cites inapposite cases for irrelevant propositions. Thus, the Court will overrule Petitioner's objections.

Under 28 U.S.C. § 2253(c)(2), the Court must also determine whether a certificate of appealability should be granted. A certificate should issue if Petitioner has demonstrated a "substantial showing of a denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Sixth Circuit has disapproved issuance of blanket denials of a certificate of appealability. *Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001). Rather, the district court must "engage in a reasoned assessment

of each claim" to determine whether a certificate is warranted. *Id.* Each issue must be considered under the standards set forth by the Supreme Court in *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595 (2000). *Murphy*, 263 F.3d at 467. Consequently, this Court has examined Petitioner's claims under the *Slack* standard.

Under *Slack*, to warrant a grant of the certificate, "[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." For the reasons stated above, the Court finds that reasonable jurists could not find that this Court's dismissal of Petitioner's claim was debatable or wrong. Thus, the Court will deny Petitioner a certificate of appealability. Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation (Docket #29) is **APPROVED AND ADOPTED** as the Opinion of this Court, and Petitioner's Objection is **OVERRULED**.

IT IS FURTHER ORDERED that Petitioner's habeas corpus petition is **DISMISSED**.

IT IS FURTHER ORDERED that a **certificate of appealability** is **DENIED** by this Court.

This case is **concluded**.

Dated: January 8, 2010

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE